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THIRD CONFERENCE ON THE
LAW OF THE SEA

Third Session
GENERAL COMMITTEE

PROVISIONAL SUMMARY RECORD OF THE TWELFTH MEETING

held at the Palais des Nations, Geneva,
on Friday, 2 May 1975 at 10 a.m.

<u>Chairman:</u>	Mr. AMERASINGHE	Sri Lanka
<u>Rapporteur General:</u>	Mr. RATTRAY	Jamaica

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TIME, VENUE AND DURATION OF THE NEXT SESSION

Mr. RUTLEDGE (Secretariat) said that the competent departments of the United Nations Office at Geneva and the United Nations Department of Conference Services in New York had considered the possibility of accommodating the next session of the Conference early in 1976 for a period roughly equivalent to that of the present session and with equivalent services. The Conference could meet at Geneva between 19 January and 5 March, or in New York between 2 February and 9 April, without any great change in the calendar of conferences in New York or Geneva. If the Conference met in New York after 9 April, it would overlap with the session of the Economic and Social Council which was to begin on that date, and consequently would not be able to make simultaneous use of the three large conference rooms it needed.

Mr. TRAORE (Ivory Coast), Chairman of the African Group, said that the African Group, like the entire Group of 77, would prefer the next session of the Conference to be held in a developing country in Africa, Asia or Latin America. It was not yet in a position to give a final opinion on the matter, but thought the Conference could not contemplate holding its next session in New York or Geneva unless it was impossible to hold it in a developing country.

Mr. SAID-VAZIRI (Iran), Chairman of the Asian Group, said that most of the Asian Group would prefer the Conference to hold its next session in a developing country in Asia or Africa. If none of those countries offered to have the Conference, its choice would be New York or, failing that, Geneva. It would prefer the Conference to start in April 1976, but had not yet considered the question of its duration.

Mr. ZEA (Colombia), Chairman of the Group of Latin American States, said that although some Latin American countries would have preferred the Conference to meet again during the coming summer, the Group of Latin American States had decided to reject that possibility and hoped that the next session would be held early in 1976. In a spirit of solidarity with the Group of 77, the Latin American States would prefer the Conference to meet in a developing country in Asia, Africa or Latin America. If that was not possible, it would agree to the next session being held in New York or Geneva, but would prefer New York. The Group of Latin American States had not yet considered the question of the duration of the session, but he, personally, thought it should be at least eight weeks, so as to have time to discuss all the items on the agenda.

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Mr. VINDENES (Norway) said that the Group of Western European and other States, of which he was Chairman, had not yet considered the item on the agenda.

Mr. KOZYREV (Union of Soviet Socialist Republics) said that the Group of Eastern European States, of which he was Chairman, saw no objection to the Conference holding its next session in a developing country; quite the contrary. But since the Conference had not yet been invited by any developing country, it would probably have to choose between Geneva and New York. As to the date and duration of the next session, the Group of Eastern European States agreed to the dates proposed by the Secretariat and believed that the session should last at least eight weeks.

Mr. STEVENSON (United States of America) said he thought eight weeks would hardly suffice for the Conference to complete the enormous task that awaited it, and would prefer the next session to be one or more weeks longer.

Mr. ENGO (United Republic of Cameroon) said that in view of the severe winter in New York, he would prefer the next session of the Conference to begin there in April.

The CHAIRMAN invited the regional groups to continue consideration of the question and said that the Secretariat would study the United States representative's proposal that the session should be of longer duration.

QUESTION OF INTER-SESSIONAL ARRANGEMENTS FOR INFORMAL CONSULTATIONS AND NEGOTIATIONS

Mr. ARIAS SCHREIBER (Peru) said that for financial and economic reasons connected with the calendar of international activities of the different countries concerned, it would be difficult, if not impossible, to hold meetings at the Conference level before the next session. He did not, for those reasons, rule out the possibility of holding private meetings outside of the Conference, but he emphasized that such meetings would have no official standing and, consequently, would involve no commitment on the part of participating States. In any event, he was categorically opposed to any meetings, official or informal, which would be held within the framework of the Conference, since that, in his opinion, would amount to holding another session during the year. He thought that in any case the Conference did not need to take an official decision on the matter.

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The CHAIRMAN said that there was no question of holding informal meetings at the Conference level. But if the various regional groups and interest groups needed to hold informal consultations and negotiations between the sessions they should inform the Secretariat in advance, so that it could place the necessary rooms and services at their disposal.

Mr. ENGO (United Republic of Cameroon) said he thought it would be very useful to hold informal consultations and negotiations between sessions, since governments would have to study carefully the single texts to be submitted to them and should have an opportunity of exchanging views on the subject. The consultations would have to be held at the level of regional groups and interest groups. The Secretariats at Geneva and New York should be asked to provide those groups with the meeting rooms and services they would need. Of course, it was for delegations to initiate consultations between groups.

Mr. YANCOV (Bulgaria) said he was in favour of any initiative aimed at organizing inter-sessional informal consultations and negotiations between the different groups. He believed, however, that such informal meetings could be useful only if they were sufficiently representative of the trends which had emerged at the previous session. Furthermore, he considered that, during sessions, informal consultations and negotiations between groups should not have priority over meetings, informal or official, held as part of the Conference itself, and should not encroach on the time devoted to meetings of the Conference and its committees. In that connexion, he observed that on several occasions committee meetings had had to be cancelled because they coincided with informal meetings of groups. He recognized the importance of informal meetings held within the framework of the Conference, which had proved very productive despite the slow progress made, but he thought the groups should hold fewer meetings during sessions, so as not to encroach on the time reserved for meetings of the Conference.

Mr. BARNES (Liberia) said he shared the opinion expressed by the representative of Peru and wondered whether the Conference should define terms of reference for inter-sessional meetings.

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The CHAIRMAN said that the aim was not to assign terms of reference to informal meetings and that members of the General Committee should confine themselves to indicating whether they wished the Secretariat to provide the services such meetings might need.

Mr. ZEGERS (Chile) said that his delegation had been in favour of reconvening the Conference during the current year, but since that possibility had been ruled out, it was in favour of holding another session as soon as possible. Furthermore, he thought the single negotiating texts should be discussed before the end of the session and he asked the Chairman what he proposed in that respect. Governments should have an opportunity of making their views known, if only by sending their comments to the Secretariat between sessions. Since it was essential to hold inter-sessional consultations, the necessary services should be made available, without, however, laying down terms of reference for such meetings. He suggested taking advantage of the General Assembly session to arrange informal meetings.

The CHAIRMAN said that at the fifty-fifth plenary meeting of the Conference, held on 18 April 1975, he had discussed the scope and purpose of the single negotiating texts. He saw no objection to governments sending their comments to the Secretariat, but in his opinion a general debate on the single texts could not be held, since that would re-open the problem and it would then be impossible to negotiate.

Mr. STEVENSON (United States of America) said he supported the statement made by the representative of Chile and considered that another session of the Conference should be held as early as possible in 1976. In addition, he thought the Secretariat should provide logistical support for inter-sessional work and that it would be counterproductive to lay down precise terms of reference for informal meetings.

Given the existence of single texts, the character of the next session would be somewhat different from that of the current one. The informal meetings held at the current session had gathered momentum and it was important that their work should continue at the same pace. Inter-sessional work, and in particular, agreement on single amendments would therefore be useful.

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Mr. OGUNDERE (Nigeria) said he was opposed to holding informal meetings between sessions, since single negotiating texts would be available, the Conference could proceed in the same way as all other codification conferences.

For countries which could count on the services of a sufficient number of lawyers, it was of little importance whether the next session was held in six months time or even earlier. The same was not true of other countries, however, and he thought that governments should be given time to study the documents, to reflect and to evaluate the work done, in order to decide what compromise they could reach.

Nevertheless, the fact remained that the members of regional groups should continue their consultations, if only to prevent the proliferation of amendments. He wondered whether it would not be possible to arrange semi-official consultations during the General Assembly.

Mr. YASSIEN (Iraq), after observing that the task of the Conference called for considerable effort, said that although considerable progress had been made during the session, it would not enable the Conference to achieve its objective in the near future. One of the reasons for the situation was that the preparatory period had been too short and there had been no official document on which the Conference could base its work. That had not been the case in 1956 at the conference convened to consider the texts prepared by the International Law Commission, when a single session of the conference had sufficed for the examination and adoption of those documents. He therefore thought it appropriate to reconsider the Conference's methods of work.

It would be advisable to invite governments to make good use of the time between the sessions; he suggested the establishment by the Conference or by the General Assembly of an ad hoc committee responsible for preparing drafts and laying the legal foundations of the new law of the sea. Such a committee could comprise 25 to 50 States representing the different geographical regions and the various interests. It would meet between the sessions and its work would be of an official character. However, it would not be a permanent body and its objective should be the preparation of an integral draft.

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The CHAIRMAN remarked that the suggestion of the representative of Iraq was similar to one which he himself had made earlier and which had not been favourably received. On the other hand, it would be desirable to make maximum use of the Drafting Committee.

Mr. BEESLEY (Chairman of the Drafting Committee) said that, as stated in its report, the Drafting Committee had met officially and had agreed to meet again, but informally. If the President of the Conference or the Chairman of a Committee referred a text to the Drafting Committee, it would meet informally to consider the text, but it could not in any circumstances serve as a vehicle for consultations or negotiations. The Drafting Committee must comply with its terms of reference and it would have a specific role when the Conference reached a certain stage in its work. If a negotiating text was submitted to it, the Drafting Committee could consider the legal issues involved, but only informally.

Mr. KEDADI (Tunisia) wondered whether the General Committee was discussing the question of inter-sessional arrangements for informal consultations and negotiations, or the question of the possibility of the Drafting Committee's meeting informally to put single negotiating texts into legal language.

He did not share the view of the Chairman of the Drafting Committee and considered that it was not within the terms of reference of the Drafting Committee to meet in order to give legal form to single negotiating texts. In his opinion, the Drafting Committee could only act after the Conference had taken the requisite political decisions.

Although the President's suggestions were intended to accelerate the work of the Conference, they had not been followed for reasons which had been explained by the representatives of developing countries. To give a mandate to inter-sessional meetings would, in fact, be equivalent to convening a session; moreover, meetings of a more or less official character were inconceivable without the participation of all the members of the Conference. As to the idea of a committee of "wise men", the Conference had always rejected it for economic and financial reasons, among others. What was more, the decision which had been taken to draw up single negotiating texts constituted a new factor. Those texts, which would serve as the basis for future negotiations, would have to be communicated to governments for consideration, which would require a certain amount of time.

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He did not think that meetings of regional or interest groups had interfered with committee meetings, but he would ask the Secretariat to ensure that at the next session, sufficient time was allowed for meetings of both the Conference and the groups.

In conclusion, he expressed the view that the President of the Conference might appeal to members to hold private meetings between the sessions but that the Conference should refrain from giving them instructions and should not adopt any decisions.

Mr. BAILEY (Australia) considered that the Drafting Committee should confine itself to the role assigned to it and that it could play no part in the form of inter-sessional activities connected with consultations or negotiations. The suggestion of the representative of Iraq might have intrinsic value but he did not see how the Conference would be able to reach agreement on the 35 or 50 persons to be elected to the proposed ad hoc committee; the only possibility would be a composition similar to that of the General Committee. While it was not possible to create an ad hoc consultative committee, consultations and group or inter-group meetings could be held during the inter-sessional period with a view to reducing the number of amendments. Like the representatives of the United States and Nigeria, he considered it necessary to ensure that the next session did not begin with an avalanche of amendments. Any amendments should only be circulated at the final stage, after governments had carefully studied the texts and after the groups had met.

The CHAIRMAN said that the creation of an official group which would meet between sessions for the purpose of negotiations was far from receiving general approval and that the plenary Conference had not given any mandate to that effect. The General Committee was only called upon to decide whether it favoured informal inter-sessional negotiations.

Mr. KNOKE (Federal Republic of Germany) said that the next session should avoid holding a general debate. Once delegations had returned home with the unified texts prepared by the chairmen of committees a four-stage operation should be initiated: detailed study of the texts by governments, meetings of regional and interest groups, contacts between the main interest groups and, if necessary, informal use of the services of the Drafting Committee. The next session should not be held too early so as to allow enough time for those four stages. The inter-sessional meetings of regional and interest

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groups could take place during the session of the General Assembly at New York and the Secretariat would be called upon to meet logistical requirements.

Mr. SCHREIBER (Peru) noted that the idea of an ad hoc committee now appeared to have been abandoned and moreover that it was not possible to entrust the Drafting Committee with functions other than those provided for in rule 53 of the Rules of Procedure. The Drafting Committee could not exercise those functions on unified texts intended simply to provide a basis for subsequent negotiations. There remained the possibility of holding informal meetings between the sessions for which the Secretariat's logistical support would be needed. Such informal meetings would be between persons participating in their individual capacity and as their results would not be of an official character they could not be involved in the subsequent deliberations.

Mr. RABETAFIKA (Madagascar) said that his delegation was absolutely opposed to any "institutionalization" of consultations and any forced negotiations, which could only produce the results contrary to those desired. Groups wishing to meet between the sessions could do so informally and would ask the Secretariat for the services and accommodation required. Such arrangements should remain flexible because of the possibility of rapprochements or realignments. His delegation had very definite reservations about the idea of an ad hoc committee particularly because of the difficulties that would arise over its membership. As to the Drafting Committee, it should only work on official documents on which the Conference had reached agreement, whereas the unified or single texts to be prepared by the chairmen of committees would not be official. In any case, it was understandable and desirable that all delegations should seek to narrow their differences at the bilateral, the group and the inter-group level.

Mr. KOZYREV (Union of Soviet Socialist Republics) noted that there was agreement that decisions should be reached by consensus. The very constructive suggestion by the Chairman reflected his hope that the Conference would end with a convention acceptable to all. As the Tunisian representative had said, the Conference was dealing with questions that were essentially political. That was why all States should be invited to take part in the inter-sessional consultations suggested by the Chairman. If some of them could not send a representative care could be taken that their interests were represented in the groups. The consultations should be informal and should be directed to unofficial texts submitted by the chairmen of committees in

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their personal capacity. Those consultations should be held under the auspices of the President of the Conference. When they should be held could be determined in the light of the availability of the New York or Geneva services: meetings could be arranged, for example, just before or during the next session of the General Assembly.

The CHAIRMAN said that as the consultations were not to be "institutionalized" no invitations would be sent. The initiative for holding such consultations would rest with those wishing to have them. He himself was prepared to offer his services to those who asked for them.

Mr. MEDJAD (Algeria) said that his delegation was against the creation of an ad hoc committee, which would undoubtedly result in an excessive number of variants. He asked whether the Secretariat's logistical support would be limited to consultation meetings at New York or Geneva or whether it would also be provided for meetings held elsewhere, for example, in connexion with meetings of regional groups.

The CHAIRMAN said that such support would be provided only at New York or Geneva. In any other case the express authorization of the General Assembly would be needed.

Mr. OGISO (Japan) believed it should be left to the chairmen of the three Committees to convene consultation meetings between the sessions as they thought necessary. Participation in such meetings should be open to all.

Mr. de LACHARRIERE (France) said that it would be preferable not to discuss now proposals which had failed to gain wide support. The proposals which had clearly received such support were those which had been made by the Chairman and had been endorsed by several representatives including the representatives of Tunisia, the Soviet Union, the Federal Republic of Germany and Peru and which provided that at the current stage governments should ponder on the proposals and groups should plan to work between the sessions. It was certainly not desirable to "institutionalize" those consultations. The question to be settled was what logistical support should be given to the groups and the negotiations between groups. It was regrettable that such support was only available at Geneva or New York but such limitations were inherent in the work and rules of the United Nations.

Sir Roger JACKLING (United Kingdom) said that at that stage it was enough to decide whether to ask that the Secretariat should be authorized to assist delegations wishing to engage in inter-sessional consultations.

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Mr. SCHREIBER (Peru) emphasized that, as the consultations would be informal and between persons acting in a private capacity, there could be no question of sending official invitations to governments. He feared that the presence of the President of the Conference at those consultations might tend to render them official, particularly if he were to preside over them.

The CHAIRMAN said that he would not preside over such consultations and certainly would not fulfil functions contrary to the Rules of Procedure.

Mr. YOLCA (Turkey) said that the Tunisian representative had clearly stated what he himself had had in mind. His delegation agreed that the procedure outlined by the Chairman should be followed, namely that regional and interest groups could meet in private between sessions and that the Secretariat should be asked to provide the requisite logistical support. That was as far as one could go at that stage.

The CHAIRMAN said that in the absence of objection he would take it that the General Committee decided to request the Secretariat to provide the needed facilities to any group wishing to hold informal consultations between the sessions.

It was so decided.

The CHAIRMAN added that anyone wishing to arrange such meetings should inform the Secretariat before Wednesday, 7 May. The Secretariat would distribute to all delegations a note indicating the dates of scheduled meetings of the main United Nations bodies.

The meeting rose at 11.50 a.m.

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